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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,734	02/20/2004	Kuo-Chung Chen		3605
7590	03/16/2006		EXAMINER	
Jdi Jing Deng Industrial Co., Ltd. P. O. Box No. 6-57 Junghe, TAIPEI 235 TAIWAN			DABNEY, PHYLESHA LARVINIA	
			ART UNIT	PAPER NUMBER
				2646

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/781,734	CHEN, KUO-CHUNG	
	<b>Examiner</b>	<b>Art Unit</b>	
	Phylesha L. Dabney	2646	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 February 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-9 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

This action is in response to the application filed on 20 February 2004 in which claims 1-9 are pending.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation " the adjusting post of the main body of the microphone " in line 2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Keliiliki (U.S. Patent No. 6,427,018).

Regarding claims 1-3, Keliiliki teaches an adjustable ear-hook earphone with a microphone comprising a C-shaped hook (at 10) with a sleeve (13) on top end thereof; a wire entry (55, 57), a wire exit (24, 55), and a wire channel (as shown in the figures through item 10) arranged on upper part of the C-shaped hook in tangential direction; a main body (11) of earphone with a speaker mounted on lateral side and a limiting part (17) extending from top side thereof, an adjusting post (15) clipped on lateral side of the limiting part; wherein the outer diameter of the adjusting post is corresponding to the inner diameter of the sleeve so that the adjusting post is sleeved into the sleeve to allow the main body of earphone turning left or right in a certain angle (which reads on its ability to be used on either ear) as well as moving upwards or downwards (arrow 16); a flexible tube (35) with one end pivoted to the lateral side of the main body of earphone and extending downwards; the flexible tube swings to and fro; a microphone (45) disposed on one end of the flexible tube and connected with the main body of earphone by the flexible tube, and a signal wire (22, 46) passing through the entry, the wire channel, the wire exit, and then being connected to the main body of earphone.

Regarding claim 4, Keliiliki teaches the adjustable ear-hook earphone with a microphone as claimed in claim 1, wherein the limiting part (17) of the main body of earphone further having a wire (as shown in the figures) accommodating slot for housing the signal wire therein.

Regarding claims 5-8, see the rejection of claims 1-4 respectfully.

Regarding claim 9, Keliiliki teaches the adjustable ear-hook earphone with a microphone

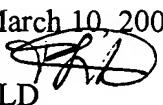
as claimed in claim 5, wherein the adjustable ear-hook earphone with a microphone further having a flexible tube (35) with one end pivoted to the lateral side of the main body of earphone (as shown in figure 7) and extending downwards; the flexible tube swings to and fro, a microphone disposed on one end of the flexible tube and connected with the main body of earphone by the flexible tube.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phylesha L. Dabney whose telephone number is 571-272-7494. The examiner can normally be reached on Mondays, Tuesdays, Wednesdays, Fridays 8:30-4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 10, 2005  
  
PLD

  
SINH TRAN  
SUPERVISORY PATENT EXAMINER